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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

13 CR 811

5 ANDY MACCOW,

6 Defendant.

7 -----x

8
9 September 24, 2015
3:26 p.m.

10 Before:

11 HON. ANDREW L. CARTER, JR.,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
Southern District of New York

17 BY: JASON MASIMORE

Assistant United States Attorney

18 WALTER MACK

19 Attorney for Defendant

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(In open court)

THE DEPUTY CLERK: Criminal cause for a sentencing in case number 13 CR 821. United States vs. Andy Maccow. Counsel, please state your appearance for the government.

MR. MASIMORE: Good afternoon, your Honor. Jason Masimore for the government.

THE DEPUTY CLERK: And for the defendant?

MR. MACK: Good afternoon, your Honor. Walter Mack for the defendant, Mr. Maccow, sitting to my left.

THE COURT: Okay. Good afternoon. Good afternoon, Mr. Maccow.

THE DEFENDANT: Good afternoon.

THE COURT: We're here to continue a sentencing hearing that was begun some time ago regarding Mr. Maccow. My recollection is that last time we were here -- previously I had determined the appropriate guideline range in this case and determined that Mr. Maccow was in criminal history category III and that his total offense level was 27, resulting in a guideline range of 87 to 108 months.

Is that everyone else's recollection as well?

MR. MASIMORE: Yes, your Honor.

MR. MACK: It is, your Honor.

THE COURT: And the last time we were here, we were scheduled for a Fatigo hearing. My understanding, again, at that time, is the parties determined it was no longer

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1 necessary; they didn't request any sort of Fatico hearing.

2 Just so the record is clear, that is still the case, I
3 take it?

4 MR. MACK: That is true, your Honor, for the defense.

5 MR. MASIMORE: Yes, your Honor.

6 THE COURT: Then I heard from both parties before
7 regarding the appropriate sentence in this case. And I
8 indicated I needed some more time to think about this.

9 I've had some time to think about this, but I will
10 give the parties an additional opportunity, if there's anything
11 else they wish to raise regarding the appropriate sentence in
12 this case.

13 Starting with counsel for the defense?

14 MR. MACK: Yes, your Honor. I do have a few moments
15 of information that I would like to provide. I first would
16 like to introduce and indicate that Mr. Maccow's mom, sister,
17 fiance and his daughter are in court today.

18 THE COURT: Okay.

19 MR. MACK: And I would also say that there would have
20 been more people from the family here on the original
21 sentencing date that was adjourned, but because of the traffic
22 situation, and also the difficulty of some of whom who are
23 teachers, etc., are unable to be here today but would have been
24 here earlier in support of Mr. Maccow.

25 THE COURT: Okay.

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1 MR. MACK: So what I would like to state, at least as
2 how the defense sees the situation as it currently is --

3 THE COURT: Okay.

4 MR. MACK: -- the probation department in its
5 presentence report, although we've spent time on that, its
6 recommendation to the Court was 121-month sentence, which was
7 somewhat vehemently opposed as being a warehouse sentence.
8 That was, of course, based upon their denial of the three
9 acceptance of responsibility points, and we are now beyond
10 that. And I believe, although the government -- I think we've
11 just stated it. I think their position is likely to be a
12 guideline sentence. And guidelines, as we've just affirmed, is
13 the 87 to 108 months that the Court just mentioned and both
14 parties acknowledge.

15 What of course the defense is asking for is a
16 below-guidelines sentence. It was set forth in my sentencing
17 recommendation filed back with the Court I believe on March 5.
18 And I wanted to just take a few moments, with the Court's
19 patience, to indicate why I believe that sentence is
20 appropriate under the circumstances.

21 I know the Court may have been unhappy with some of my
22 arguments on the objections to the presentence investigation.
23 I think I went through that one. I would ask that whatever
24 concern the Court may have had in my comments be taken against
25 me, obviously, not against the defendant.

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1 I want to support my position very concisely. Based
2 upon the report, the presentence report, and other information
3 that was presented to the Court in my sentencing submission --
4 and I'm really not completely restating, but pretty much
5 stating what I did say in my sentencing submission, neither of
6 which considerations have been considered either by the
7 government or by the probation officer. In sum, what I am
8 urging to the Court, based on the information before it, is
9 that Mr. Maccow, during the time period of the conspiracy which
10 is charged, 2008 to 2013, 28 months of that time period he
11 actually was in custody.

12 So his actual involvement in the conspiracy was
13 somewhat obviously limited; that the reason the guidelines are
14 as high as they are is because of the tying to the drug
15 guidelines; because if we were only considering what the role,
16 in fact, was of Mr. Maccow, he was a burglar. He did not have
17 anything to do with the distribution of the drugs, other than
18 burglarizing. I'm not minimizing that. But if only we were
19 considering the fact that he broke in without the tie to the
20 drug situation, his guideline would be 33 to 41 months. And if
21 we were talking about the obstruction situation with respect to
22 time, his guideline would be 37 to 46 months. So what actually
23 has inflated the guideline at 27 has been the tie to the drug
24 quantities, which were described by the government over the
25 course of the conspiracy.

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1 Now, I think there is sufficient, and evidence even in
2 the PSR, that Mr. Maccow, during the time period that he was
3 active, which was when he got out of prison in I think it was
4 August of 2010, he was an addict. He was addicted. He was
5 taking somewhere between -- it's in the PSR -- 9 to 15
6 Percocets a day. That was based upon or probably started
7 because of painkillers he started to take, either when he was
8 in a coma for a number of months, but more significantly, when
9 he was knifed and started. I think the actual number that is
10 in the report is 9 to 15 pills per day. He was taking liquid
11 heroin one to two times a day. And basically he was smoking
12 marijuana basically day after day.

13 If you look at his rap sheet, which of course I have,
14 approximately half of the counts that comprise his criminal
15 history are marijuana-based; the other half, primarily burglary
16 based. And his role -- I mean, during the time period, his
17 loot, or at least product, were pills that he received, which
18 he used for his own personal use. These were the pills that he
19 was taking on a regular basis.

20 Now, it's not just that information, but also, what
21 has not been addressed at any length, which were significant
22 parts of my sentencing submission -- and I think the two most
23 important points that I just want to reiterate, which I think
24 are important, not only was he an addict at the time, but
25 furthermore, during the time period that we are here today is

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1 that he had the challenges -- I think I would say, to
2 summarize, without going into the detail of Dr. Paredes's
3 report, which the probation department, despite having it,
4 although may not have had it at a timely basis, as I had
5 originally sent it -- we have different recollections when they
6 got it, but they certainly got it in March in time to revise
7 the report. And for reasons that I still do not understand,
8 the summary of what was in the report was that he was diagnosed
9 with mental issues, depressive disorder, specific learning
10 disorder. He was considered an individual of diminished
11 capacity. I mean, I'm not going to go in on the public record
12 to the percentiles and things that are in the report, but they
13 are very staggering in terms of his mental capacity and ability
14 to understand and make judgments.

15 And finally, he was considered an addict with
16 marijuana opioid and stimulant disorders, with a recommendation
17 in the probation -- in the report of Dr. Paredes that he
18 received specific treatment called a MICA program, which I
19 happen to have some familiarity with, which is meant for
20 mentally ill, chemically addicted personnel. And in essence,
21 that report was never considered. No one has ever said
22 anything about it, either from probation or from the
23 government. We think it's an important factor.

24 And perhaps finally, and I think most important, the
25 family -- and this is part of my sentencing submission --

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1 perhaps unusually so in cases of this nature, has indicated to
2 your Honor, I think in 21 or 22 letters, or my number may be
3 off but nothing significant, which were attached to the
4 sentencing submission in March that, one, they loved him
5 dearly, which it's certainly not unusual; but more
6 significantly, that they would see that when your Honor
7 permitted him to depart his period of incarceration, that they
8 would supervise him, take responsibility for his conduct and,
9 in fact, see that he was employed immediately. And I think the
10 gist of that representation to the Court is a significant one.

11 And I think his mom is prepared, if the Court would
12 like to inquire on the subject, of the persons in the family
13 who are able to see that once he was released, that he would be
14 employed. He would not be permitted to return to where he had
15 the difficulties that he did. I'm not forgetting the
16 obstruction count. He's a man of nonviolence. The obstruction
17 count was a fist fight. I understand. I'm not in any way
18 changing anything that's been represented to the Court, but
19 what it was was a fist fight, and without significant injury.

20 Other than that, there is no violence in his past.
21 The weapon that is cited in his rap sheet was a gravity knife
22 with extremely little -- I think it was a conditional discharge
23 that he received as a result. But it was not a firearm. And
24 that is something that's at least confusing, until you look and
25 see what was in the rap sheet.

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1 And what I am suggesting, certainly in light of what
2 the attorney general and virtually a retinue of many people who
3 are speaking out on this subject, this person is an addict.
4 Certainly he committed the crimes he pled guilty to. But he's
5 an addict who needs treatment rather than a warehouse sentence,
6 a sentence where -- and he is in the extraordinary position,
7 which I would suggest, at least based upon my experience here,
8 that he has family who are prepared, when the Court sees fit,
9 to permit him to be released, to see that he will be, one,
10 supervised, and more importantly, employed.

11 And I think the defendant himself realizes, this is
12 his last and only chance, given his daughter's presence, to
13 maintain any type of lengthy relationship as a father, which is
14 probably one of the most important things that he has to say.
15 And he's going to, with your Honor's permission, have a few
16 moments and would like to address the Court to some extent.

17 But what I am basically seeking here is mercy from the
18 Court to give this gentleman an opportunity to take advantage
19 of the situation he's in; to ask the Court to recognize what is
20 in Dr. Paredes's report, which is, if you take a look at the
21 numbers and the percentiles that are there, the various tests
22 and her diagnoses one way or the other, this is certainly a
23 situation that under normal circumstances could very well be
24 considered for departures under the guidelines. I'm committed
25 to the plea agreement, but diminished capacity and mental and

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1 emotional issues are and do give the Court permission at least
2 to consider those capacities.

3 Let me just see here. I think I may have specific
4 references to those points. I recognize that I am tied to the
5 plea agreement, but I'm talking about 5H1.3 and 5K2.13. Those
6 are -- one is diminished capacity and the other is emotional
7 and mental conditions.

8 And again, I recognize, I'm not arguing, as I would
9 not be permitted to, that they should have been considered for
10 departures, but they are certainly facts and circumstances of
11 the case under 3553(a). They were specifically pointed out by
12 Dr. Paredes. The probation department considered it. They had
13 no issue or had no interest in revising their report to the
14 Court.

15 And what I'm suggesting, this is a person who should
16 not be warehoused, who has never served a sentence longer than
17 two years, four months. A ten-year sentence, an eight-year
18 sentence basically is too much for an individual with his
19 background, with the kind of challenges that he has, and in a
20 situation under supervised release, where I spent a lot of time
21 these days, that if, in fact, he does not take advantage of
22 some mercy shown by the Court beneath the guidelines, he will
23 be back to serve a very long sentence.

24 We are asking for anywhere between three and five
25 years. We don't mind five years. We would say that that would

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1 give the Court some assurance that the family meant what it
2 says. It would give Mr. Maccow an opportunity to spend some
3 time with his daughter. And it would allow the Court to keep a
4 close eye on him through the probation department of his
5 behavior.

6 And then it would permit him -- because you cannot get
7 a MICA program within the Bureau of Prisons. I've been through
8 that issue with Judge Rakoff very recently. It is only an
9 outpatient type of situation available. It is a relatively new
10 frontier situation to deal with addiction and people also who
11 have mental infirmities, both of which were pointed out by
12 Dr. Paredes in her report to the Court.

13 THE COURT: Let me hear from counsel for the
14 government.

15 MR. MASIMORE: I think we've put in a substantial
16 submission. I'm very happy to answer questions for the Court
17 but I think there's ample reasons for the Court to give a
18 sentence within the guidelines in this particular case.

19 MR. MACK: Your Honor, I don't mean to interrupt the
20 Court.

21 THE COURT: Yes, Mr. Mack.

22 MR. MACK: I know Mr. Maccow would like to address the
23 Court at some time. That may be in the future, but it is
24 something I know he wishes to do.

25 THE COURT: Okay. Let me just hear very briefly again

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1 from you, Mr. Mack.

2 You've indicated that you're asking for a sentence
3 around five years because of Mr. Maccow's -- for many reasons,
4 but because particularly of Mr. Maccow's drug addiction and
5 perhaps mental health issues. I know that you're not seeking a
6 downward departure. I, of course, have the right to consider
7 sua sponte any downward departure, but if I were to do so, I'd
8 have to give the parties notice of that.

9 You've mentioned even though you're not moving for a
10 downward departure, certain sections of the guidelines, in
11 particular I suppose 5H1.3, and perhaps you were referring to
12 5H1.4, talking about physical conditions, including drug or
13 alcohol dependence or abuse, in 5H1.42 indicates that drug or
14 alcohol dependence or abuse ordinarily is not a reason for a
15 downward departure. Substance abuse is highly correlated to an
16 increased propensity to commit crime. Due to this increased
17 risk, it is highly recommended that a defendant who is
18 incarcerated also be sentenced to supervised release with a
19 requirement that the defendant participate in appropriate
20 substance abuse program, etc.

21 And regarding any potential departure for mental and
22 emotional conditions, to the extent I'm permitted to do that, I
23 choose not to do so. I certainly have seen the report, or I'm
24 not inclined to do so. I've seen the report, and certainly
25 that report talks about some issue that Mr. Maccow has in terms

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1 of some mental issues. Certainly nothing in that report, and I
2 don't believe that counsel has indicated that anything in that
3 report suggests that Mr. Maccow is not competent to proceed or
4 was legally insane at the time that these crimes were being
5 committed. But I think that your argument is because of
6 this -- of some limitations in terms of cognitive ability, I
7 should consider that under the factors in 18, U.S.C., 3553.

8 MR. MACK: That is correct, your Honor. I am not in
9 any way suggesting he is incompetent or insane. I'm suggesting
10 he has mental illness issues that Dr. Paredes found. And she
11 recommended a specific program to deal with it, and that they
12 were factors that the Court may consider. And obviously it's
13 one that I'm urging that a person who, at least as I understand
14 policy, who is an addict and is an individual with mental
15 infirmity, that treatment is an option the Court may consider.
16 And I'm asking the Court to consider it.

17 THE COURT: Again, very briefly, you indicated that
18 you believe Mr. Maccow doesn't have any real incidents of any
19 sort of violence on his rap sheet. He didn't get any points
20 for this. This was a juvenile -- this is a youthful offender
21 adjudication, but he certainly was convicted back in 2001 of a
22 robbery in the second degree, which certainly would qualify as
23 a crime of violence. Of course, that's back when he was 17
24 years old.

25 But one of the things I am also concerned about is

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1 Mr. Maccow's criminal record. I know you've indicated that
2 when you say he's been suffering from a drug addiction,
3 especially since 2010 when he was in an accident and started
4 taking some pills, but certainly his criminal record goes back
5 far before 2010.

6 And one of the concerns that I have is it doesn't
7 appear that he's ever gone more than 25 months without getting
8 arrested, each time that he is convicted of a crime, starting
9 back -- perhaps this is not a crime, but the youthful offender
10 adjudication. But he was arrested for that November 25, 2001.
11 He received a youthful offender adjudication originally
12 February 1, 2002. Then he was arrested for a marijuana-related
13 charge December 16, 2003. While that was a marijuana-related
14 charge, that was not possession of marijuana; that was a sale
15 of marijuana to an undercover officer back December 16, 2003,
16 certainly less than two years from the adjudication of a
17 youthful offender and not quite 25 months from his arrest for
18 that robbery in the second degree.

19 Then he was arrested again within -- certainly less
20 than two years from December 16, 2003, he was arrested again on
21 February 22, 2004, for another criminal sale of marijuana in
22 the fourth degree. And then within two years, on January 5,
23 2006, he was arrested for aggravated unlicensed operation of a
24 motor vehicle in the third degree, as well as false
25 impersonation.

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1 Following that, about a month-and-a-half later, he was
2 arrested for criminal mischief. And February 22, 2006, less
3 than about -- about 18 months later, he was arrested on
4 August 7, 2007, for criminal possession of marijuana. Then he
5 was arrested on August 23, 2007, 16 days after that other
6 arrest he was arrested on.

7 And then we have the instant offense, and that offense
8 that took place, conspiracy that took place between 2008 and
9 2013. Then it appears that he's not arrested at least for some
10 time after that. He was arrested again May 20, 2011, but of
11 course with the information before me, while he wasn't arrested
12 during that time, he was certainly involved in this burglary
13 ring during that period of time. He was arrested again May 20,
14 2011, and then less than a year later, March 10, 2012,
15 arrested, and May 20th arrested for possession of burglary
16 tools. He didn't get any criminal history points for that, but
17 was arrested for that, pled guilty and sentenced to a year in
18 custody. Less than a year later, arrested for possession of
19 marijuana, March 10, 2012. Then about six months and 90 days
20 later, he was arrested for criminal possession of a controlled
21 substance in the seventh degree, and a couple more of that as
22 well. Then less than a month later he was arrested for the
23 criminal possession of a weapon in the fourth degree for the
24 knife that you had talked about. And then less than six months
25 later he was arrested for a reckless endangerment for

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1 driving -- operating a four-wheel, all-terrain vehicle on a
2 public street and driving a vehicle on the sidewalk and doing
3 doughnuts in the middle of the street, stopping in the middle
4 of the street, blocking pedestrian and vehicular traffic,
5 providing allegedly the name Andy Duran -- I know you've talked
6 about Andy Duran. That's not an alias. That's fine. But
7 doughnuts in the middle of the street, and allegedly throwing a
8 small bag of marijuana out of that. Whether that happened or
9 not, that's not part of the charge, but certainly pled guilty
10 to that reckless endangerment.

11 So I'm very concerned about the extent of his criminal
12 record. It certainly doesn't seem that he's done a real
13 significant time in jail. Maybe that is one of the problems,
14 because it seems he's not really getting the message that he
15 can't keep doing this.

16 So I'll give you a chance to address that.

17 MR. MACK: If I may.

18 THE COURT: Then I'd certainly like to hear if the
19 government has anything else. Then I'd like to hear from
20 Mr. Maccow.

21 MR. MACK: Your Honor, I certainly acknowledge that he
22 is a criminal history III individual. And that has been a
23 factor, obviously, of significance. And I certainly don't want
24 to look to have him looked at as a criminal history I.

25 I'm also pointing out, though, to the Court that as I

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1 said, many of the -- he himself told the probation officer he
2 used marijuana every day since he was -- it's either 12 or 16,
3 I forget what the situation was. I'm suggesting to your Honor
4 that he's already served almost two years. He was arrested I
5 think in November 14, 2013. He -- and I realize it's not
6 November yet, but what I am asking the Court to consider is a
7 48-month sentence, which is certainly longer than he has ever
8 served. His longest I believe was in August -- or 2008 to '10,
9 which is two years and four months.

10 In addition, Dr. Paredes goes through at some length
11 that he never received the treatment that at least is being
12 touted these days as an important ingredient for people with
13 records like this; people who have mental challenges. And
14 certainly those are pointed out in the report. To have
15 chemical addictive problems, which only got worse, that simply
16 incarcerating them for warehoused time periods, which is what
17 the government and the probation department are asking, is not
18 a way to deal with individuals of this nature.

19 Certainly there are people who deserve to be
20 warehoused. But addicts and mentally ill individuals are not
21 in that category. And treatment is considered a far better way
22 for them to proceed in the future, with the hope that their
23 criminal record ends. And that's what I'm suggesting; that
24 these are circumstances where the fact that he has not had
25 treatment, that he has been put back in prison, put back in

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1 prison, have not worked with him. And there is at least an
2 argument that can be made that rather than keeping him in
3 custody for year after year after year -- we're not asking for
4 time served, but a situation where he has a sentence that he
5 can serve, that he can be released under strict supervision,
6 supervisory with family, who are here and would be present to
7 see where he was and that -- because he believes, as I do, that
8 this is his last opportunity to avoid being in a situation
9 where his record and being incarcerated, in essence, takes the
10 most important part of his life away. And that's what I'm
11 urging upon the Court.

12 I recognize what you've said to me. I'm not
13 dismissing it. All I'm saying here and begging for is that he
14 be given the chance and the treatment and the support, given
15 these circumstances, that at least give the Court an
16 opportunity in the near future, two years hence, that should he
17 violate any of the conditions -- use, tested -- you know,
18 inappropriately, not be employed, commit any further crime or
19 whatsoever, he's back in custody. He's gone. He has given up
20 and lost his last best opportunity to be a father, a husband
21 and an individual who can demonstrate to his family that crime
22 is behind him. That's what I'm asking.

23 If he's warehoused, if he's in a situation where he
24 doesn't get treatment, BOP, I'm going to ask whatever the
25 sentence is for the RDAP situation, as something -- we're not

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1 asking for a time served situation. We're asking for an
2 opportunity for this individual, with the challenges that he
3 has, lack of treatment that he has, to rectify that situation
4 and make a decent life and -- you know, present himself as a
5 father and a husband and a family member in very good family,
6 with people who have done and committed to the Court in the
7 letters there to keep him away from those elements, who took
8 advantage of him before -- I'm not suggesting that he didn't
9 know what he was doing at all. All I am asking for, as his
10 counsel, that he receive precisely what I believe, as I read in
11 the press and read the books, is exactly what people in these
12 circumstances need: Treatment and counseling and oversight,
13 not warehousing.

14 And I look upon the guidelines that are proposed both
15 by the probation department and the government as appropriate
16 as in essence warehousing this individual and removing an
17 opportunity for him to demonstrate to the Court that what we've
18 said and what we've urged as part of our submission is
19 something that he's committed to doing.

20 THE COURT: Okay. You indicated that you believe he's
21 never had the opportunity to have treatment. It seems to me
22 that obviously, when he was adjudicated as a youthful offender
23 many years ago, according to the presentence report, by that
24 time he was already addicted to marijuana. He was sentenced
25 to -- he was adjudicated a youthful offender and given a term

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1 of probation. It seems to me that it is possible, if not
2 likely, that they may have given him drug treatment when he was
3 on youthful offender status, but even if they didn't, he
4 certainly was being drug tested during that time. And it seems
5 that he -- well, not it seems. He certainly violated the
6 conditions of his probation at that time. I'm not sure what
7 the warrant was about. It certainly seems that his probation
8 was terminated because of a lingering conviction that he had.
9 But it seems he certainly would have had the opportunity for
10 drug treatment when he was a youthful offender. It certainly
11 seems that he might have had the opportunity for -- let me just
12 check here to make sure it's okay here -- yes. It seems like
13 he -- when he was sentenced to the burglary, that doesn't give
14 me points because it's part of the relevant conduct here.

15 But when he did two years on that burglary from 2008
16 to 2010, I'll just ask you, wasn't he on some sort of
17 supervised release in the state or something of that nature
18 where he was being drug tested and the like?

19 MR. MACK: The answer is no, your Honor.

20 THE COURT: But --

21 MR. MACK: But I would like to say this, because I
22 spent a lot of time on this issue in other courtrooms within
23 the last six months.

24 Number one, drug treatment has drastically changed in
25 the last ten years. This MICA program, which Dr. Paredes is

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1 pretty expert on, as well as one or two other psychiatrists, is
2 a new way of dealing with people who have both mental illness
3 challenge and chemical addiction challenge. It is not offered
4 by BOP. They do not have it. They are maybe years behind in
5 implementing it.

6 The point is ten years ago or what have you, he may
7 very well have been counseled. And to some extent -- I'm not
8 saying treatment -- treatment is not all treatment. Some
9 treatments are more effective than others. And there has been
10 a steady progression -- I mean, that's why so many people are
11 saying treatment is the answer to addiction problems, not
12 incarceration. They're saying because treatment subjects and
13 treatment methods have drastically changed and are much more
14 likely to produce nonrecidivists than they used to be.

15 So for me to respond to the way it was when he was a
16 youthful offender how many years ago -- he's 30 today, where he
17 was 19 or 20 whenever he was, the fact is that treatment
18 options have become far better and much more likely to see that
19 there is no recidivism. And putting him in prison in the
20 atmosphere that I frequently see him in one way or the other is
21 certainly not going to be -- have any likelihood, other than
22 the punitive one, of producing the individual who can honor;
23 who is ashamed to be here before his family; who recognizes
24 that he had a fine start, and that he was loved and cared for
25 as a youth; that he was the person responsible for where he is

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1 today; and he is the person that was taking 9 to 15 Percocets
2 and liquid heroin or whatever else he was doing.

3 And what I'm suggesting, that during the time period
4 he was not -- the reason these guidelines are as high as they
5 are is because other members of the conspiracy went out and
6 sold drugs, whatever. I understand that. He's pled guilty to
7 that. But in essence, when he was doing the burglarizing, he
8 was taking -- his share or payment for what he did was for his
9 own personal use, and which he used.

10 THE COURT: And why was he doing that?

11 MR. MACK: Well, I think it's clearly he wanted -- he
12 wanted the drugs. That's something. But I think that question
13 is best asked of him.

14 He was doing that because he was acting criminally,
15 illegally. I'm not suggesting he deserves an award. I'm only
16 suggesting that the explanations for the conduct of this
17 individual are different from other people in this conspiracy;
18 that he was a person who was afflicted chemically, and that, in
19 fact, he needs treatment, rather than warehouse incarceration.
20 That's all I'm urging upon the Court.

21 THE COURT: Okay. I'll certainly hear if the
22 government has anything to say. Again, this is the individual
23 who has great potential. He has a master certification in air
24 conditioning and refrigeration and as an electrician. He's
25 been working as a welder since he was 12 years old. According

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1 to the presentence report, until about a month before his
2 arrest he was working off the books installing music systems.
3 So he certainly has the ability to work and earn a living to, I
4 suppose, support his habit, if that were the case.

5 But let me hear if the government has anything they'd
6 like to add at this point.

7 MR. MASIMORE: Your Honor, I think the one thing I
8 want to just put an accent mark on from our sentence submission
9 that I'm not hearing about now is his postarrest statements.
10 And I completely understand it's in the Court's discretion, not
11 using those statements to enhance anyone else's sentence. But
12 Mr. Maccow made statements, and he admitted to participating in
13 home invasion robberies with various people he was charged in
14 this case with. In one invasion he admitted to going inside
15 with others. They pumped open a door. They restrained
16 someone. And one of the coconspirators had a gun. This is
17 what he had admitted to. And I think that has to be in this
18 case, I respectfully submit, considered when crafting a
19 sentence.

20 And I understand the movement against warehousing.
21 I'm not sure how to use that as a verb, but the incarcerating
22 defendants simply because a guideline says something, this is
23 not that case. And this is somebody who a lengthy term of
24 sentence is needed to prevent recidivism and to account for
25 somebody who has at times engaged in dangerous behavior with

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1 some of the people he was charged with.

2 MR. MACK: Your Honor, may I respond to that?

3 Obviously --

4 THE COURT: I think I indicated last time, I'm not
5 going to consider those statements in terms of sentencing
6 Mr. Maccow. I'm not going to consider those statements. I
7 know that he made those statements, but I'm not considering
8 those in terms of increasing his guidelines or saying that this
9 is relevant conduct toward that. I'm not considering that.

10 MR. MACK: Of course I would say, as the government
11 said last time, is that he did the right thing in a sense. And
12 what he presented at the time period when he was arrested, he
13 made truthful statements. And so there is at least some -- he
14 was put in 11 South in a situation where he was definitely
15 under significant pressure. We went through that last time.

16 All I'm suggesting is in some situations, the fact
17 that he made a full statement at the time of arrest is
18 something for commendation rather than criticism. And I
19 appreciate the Court's position in not considering whatever was
20 said there.

21 THE COURT: I think defense counsel may be taking a
22 different position now than the position that was taken earlier
23 on that. But regardless of that fact, I'm not --

24 MR. MACK: I have no intent in doing that, your Honor.

25 THE COURT: Mr. Maccow, is there anything you'd like

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1 to say regarding the appropriate sentence in this case?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: You can remain seated, if you like.

4 That's fine.

5 THE DEFENDANT: First of all, I want to apologize to
6 you, first and foremost. I want to apologize to --

7 THE COURT: Keep your voice up. It's probably easier
8 if you sit down, with the acoustics. I don't take any offense
9 to you not standing, but move the microphone closer to you.

10 It's easier to hear me now.

11 THE DEFENDANT: I also want to apologize to my family
12 here present in the court today. The thing is that I just --
13 if it's okay, I just want to ask you for some help.

14 First of all, I'm going to ask you for some help
15 because I do realize that I do need some help. And the sense
16 that I do need some help is that, just like my lawyer said
17 right here, I was an addict, you know. Presently at this
18 moment, I'm not using no type of drugs or none of that. But I
19 can say that it's all because of me. It's mostly because I'm
20 incarcerated there. I don't -- I don't want to come and do my
21 time and go home and fall under these -- the same things that I
22 used to be before I got incarcerated. That's why I want to say
23 that I would love for you to give me a treatment, or for you to
24 give me some help, you know what I'm saying?

25 I do understand that everything I did, I did it upon

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1 myself. Everything that I'm going through today is because I
2 took it upon myself, you know. But to get technical, at the
3 moment that I was doing certain things I was doing, I wasn't
4 thinking clearly because I was really using a lot of different
5 drugs. I was under the influence of a lot of different drugs.
6 I wasn't thinking straight. That doesn't give me the right of
7 doing what I was doing. It's just I just want to apologize to
8 certain people. I have to apologize.

9 I also want to apologize to you for being present in
10 your court today. I just wish at least you could give me a
11 little bit of leniency and let me show you what I'm capable of
12 doing, you understand? I want to be part my family. I know I
13 wasn't a person I was supposed to be with them, you know what
14 I'm saying? But I'm just asking for the leniency, some
15 forgiveness and a little bit of leniency, if it's okay with
16 you, your Honor. Sorry.

17 THE COURT: Thank you.

18 Let me ask you that question that I posed to your
19 attorney, Mr. Maccow. You have these skills that could help
20 you earn a pretty decent living. You have skills as a welder.
21 You have certificates in air conditioning and refrigeration
22 repair and as an electrician. I'm just puzzled as to why you
23 didn't use those skills.

24 THE DEFENDANT: I could explain to you. Today -- as
25 soon as -- as soon as you fill out an application for a job,

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1 the first question they ask you is, have you ever been
2 incarcerated? Do you have any felonies? I guarantee you nine
3 out of ten places that you do go and you fill that box yes, all
4 they're going to tell you is, we'll call you. That call is
5 never going to come. I guarantee you, that call is never going
6 to come.

7 I try. I went to different places. As my little
8 sister is right here in the court, she helped me fill out a lot
9 of applications in the Internet. Them calls never came
10 through. Now, I used to go from places to places to places to
11 try to look for a job. I remember I went looking for a job at
12 a construction company with the skills that I have. Usually a
13 normal person, they will right away hire a person right away.
14 As soon as they read the skills that I have, they will hire me
15 without thinking about it.

16 What happened, I spoke to the lady that was doing the
17 interview, and she told me just like this; she told me, I don't
18 want you to lose faith. I don't want you to stop doing what
19 you're doing. But technically, I can't hire you.

20 I asked her, why is the reason you can't hire me?

21 She told me, you have felonies.

22 It's something that, all right, they do have companies
23 that work with either the BOP, that work with either -- any
24 type of imprisonment place, that they do give jobs to people
25 that have been incarcerated before. Okay. I did fill out a

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1 couple applications. I can guarantee you I filled out a lot of
2 applications. It's just them calls, to be honest with you,
3 them calls never coming through. Them calls, them people never
4 call you. All they tell you is, we'll call you, we'll call
5 you, we'll call you. They never call. You know?

6 It's really hard. You can check it out yourself.
7 Anywhere you go for an interview, the first question -- they
8 don't ask you what skills you have. They don't ask you what
9 type of person you are. They don't even take the time to see
10 what type of person you are. They don't give you a chance.
11 The first thing they do, the first question they ask you is,
12 have you ever been incarcerated? Do you have any felonies?

13 Now, tell me, a person that's been incarcerated like
14 me, do you think I got any hopes for these places of getting
15 jobs? I don't have any hopes at these places getting jobs. I
16 might have more skills than the next person that's sitting next
17 to me. I might have more skills than them. But just because
18 I've been incarcerated and that person never been incarcerated,
19 that person gets the job before me.

20 THE COURT: But I guess what also troubles me is
21 there's been a lot of arguments about general warehousing and
22 general problems with people who have convictions and have been
23 incarcerated. And obviously I'm concerned about all of those
24 things. But I'm primarily concerned about you and your case
25 and what I see about you.

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1 And again, I was saying this stuff about the
2 certifications that you have in air conditioning and
3 refrigeration repair and welding to show, again, that you're
4 someone who has promise. According to the presentence report,
5 this has not been controverted, but according to the
6 presentence report, for two years until about a month before
7 you were arrested, you were working and claiming that you
8 worked off the books installing music systems into cars at
9 Kenny Auto Sound, and that your base salary was 500 to \$570 per
10 week, and that you earned about \$150 a day in tips.

11 Now, assuming that that is true, and I have no reason
12 to believe that that's not true, if you're working five days a
13 week and you're getting \$150 a day in tips and you add that to
14 the base salary that you reported, that's about \$60,000 a year.
15 So with that information that I have before me on your case --
16 I'm not talking about in general somebody who's been
17 incarcerated and can't get a job. In your case for you, you
18 had a very good paying job for two years. According to the
19 presentence report, you stopped working there about a month
20 before your arrest because you were worried that the
21 authorities were looking for you.

22 That's what I'm having a hard time wrapping my head
23 around, is you're making good money. I understand you may be
24 struggling with addiction, but \$60,000 a year is a very good
25 salary. And it seems to me that in spite of the addictions

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1 that you're suffering from -- and I have no doubt that you have
2 these addictions -- you are sort of a functioning addict in
3 that you were able to have a job. You were able to have a
4 family. You were able to make certain decisions, and then you
5 decided to engage in this behavior because it was a quicker and
6 easier way to get drugs and/or money.

7 Can you tell me about that?

8 THE DEFENDANT: Yes. Yes, I was working. Yes, I was
9 making this type of money. Yes. That, no doubt.

10 It's just that before I used to deal with -- like I
11 used to be an addict with marijuana, right? I had -- I had --
12 something happened to my hand that they prescribed me
13 painkillers. Now, painkillers are totally different from a
14 person who's addicted to marijuana. Painkillers are things
15 that once your body gets used to it, you can't live without it.
16 A lot of people that are people that just get -- it started
17 using painkillers. They don't use them because sometimes they
18 want to use them; it's because their body cannot deal with it.
19 Every day you wake up, you wake up with a pain. Every day you
20 wake up, you wake up with a pain because your body is used to
21 the drugs that you are putting into your body.

22 Now, at the moment that you stop taking them, your
23 whole day is pain. Your whole day is pain. Everything hurts.
24 Everything bothers you. Now, that's not an excuse for what I
25 was doing. It's just I wasn't thinking right. It got to a

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1 point that -- at the beginning all I used to think about was,
2 how could I make money to be able to support myself and be able
3 to support my family, right? That was at the beginning, what I
4 used to think about.

5 Then it came to a point that I wasn't even thinking
6 about that. All I was thinking about, to be honest with you,
7 was my next fix, my next -- and what I got to do to be able to
8 buy this so I can take this pain away. And it came to a point
9 that it was like too much for me to handle. It was like, to be
10 honest with you, it was like a point that it was too much for
11 me to handle. And it was just -- and I messed up. It came to
12 a point that it just came -- it just went out of control. It
13 just came out of my hands. I couldn't handle it no more.

14 And that's what I -- that's when it first started
15 happening, you know. I wasn't even functioning right no more
16 in certain points. I was really, really deep into drugs. So I
17 couldn't even think straight. 60,000 -- you say 60,000 a year,
18 but when you taking from 5 to 15 Percs daily, 60,000 is not
19 enough. And to be honest with you, 60,000 wasn't enough for
20 what I was going through. It wasn't. It wasn't enough for
21 what I was going through, because a normal person, yes, that
22 would be enough. That would be way more than enough. And I
23 sit here today and I know that it would be way more than
24 enough.

25 But what I was going through, it wasn't enough. I was

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1 going through a real hard time. At the moments I was going
2 through so much hard time that I wasn't even thinking about the
3 people that I was really supposed to be thinking about. I was
4 just being selfish and only thinking about my addiction, my
5 addiction, my addiction and only me.

6 That's how come I tell you today to, please, I need
7 some help. If I could get certain programs, I don't -- like,
8 yes, I do understand. I have to do time because I violated. I
9 did certain things I wasn't supposed to do, certain things that
10 nobody's supposed to do. I harmed people. I took from people
11 that was working legit. I took from people that had their
12 businesses. They were supporting their family with their
13 businesses, and I took their stuff for my habit. At no moment
14 did I think I was doing right. I know I wasn't doing right,
15 because I was not doing right. But I wasn't thinking straight
16 at the moment. I was doing these certain things.

17 All I'm asking you is for a little bit of leniency so
18 that I can show you what am I capable of doing. I just want to
19 be able to show you and show my family what I may be capable of
20 doing.

21 THE COURT: Okay. Anything else from the government
22 or defense?

23 MR. MASIMORE: No, your Honor. Thank you.

24 MR. MACK: Nothing further from the defense, your
25 Honor.

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1 THE COURT: And again, just to be clear, I know we're
2 not going to have any sort of Fatico hearing, but let me find
3 out the defense's positioning here. In terms of the offense
4 conduct that we're talking about here that's been attributed to
5 Mr. Maccow in this case -- this is all conduct for him that
6 took place between February 25, 2011, and October 15, 2013, is
7 that correct?

8 MR. MACK: I'm not sure I understand the Court's
9 question, your Honor.

10 THE COURT: My question is that according to the
11 presentence report, Mr. Maccow is involved in this burglary
12 ring, and his specific conduct is starting in February 25,
13 2011, and goes up until approximately no later than October 15,
14 2013?

15 MR. MACK: That's correct, your Honor. We're not
16 challenging the presentence report.

17 THE COURT: So I guess again, I don't want to belabor
18 the point -- and there may not be good answers for this -- but,
19 again, Mr. Maccow, I am taking your case very seriously. I'm
20 very seriously listening to everything you say, and I have read
21 this presentence report and I have read everything single
22 letter from your family. And I, again, am paying attention to
23 your particular case, not in general what happens to people who
24 may be addicted to drugs and in general what happens to people
25 being warehoused or whatever that term may be.

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1 You say, again, that you weren't thinking in your
2 right mind. I think I understand what you're saying is that
3 you should have made better decisions. But it seems especially
4 so when you just finished doing two years for a burglary with
5 this same group of people, that when you get out, you start
6 doing this same thing again with these same folks. That is
7 also something that causes me a great deal of concern. I don't
8 know if there is any good answer to that, but I'll give you an
9 opportunity to address that, if you'd like.

10 THE DEFENDANT: What I want to say is like I thought
11 about it, and they already got to a point that, to be honest
12 with you, like I told the lady from the presentence report, I
13 am actually tired. I get the sense that I'm tired. I'm tired
14 of this whole ordeal. It seems like I live in here and I go
15 out there for vacation, instead of me living out there, you
16 know, and getting -- and coming here and getting incarcerated.
17 It seems like it's the other way around. And it's getting to a
18 point that like I really sit down and thought about it, and I
19 said, like is a real, normal person really supposed to be
20 living like this? Or is it that it's just me that I am a
21 problem?

22 And I came to the conclusion that I really do think
23 that I am the problem. And the sense I am the problem is that
24 I have to change my life around, because it's going to come a
25 point that when I do look back and think about what did I do,

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1 what did I accomplish. I didn't -- I haven't accomplished
2 nothing. I haven't been able to say, yes, I did this, yes, I
3 did that. I haven't been able to say that I actually spent
4 time with the people that I am supposed to, I actually could be
5 spending time with. I just want to see if -- and not even see.
6 I just want to be able to like do my time and go home and just
7 stay away from all this, period. Just it's not that I can't --
8 I can't see other people, because I'm not going to sit here and
9 point fingers to other people, because the problem is me. It's
10 not other people. Because whatever I was doing, I did it
11 because I wanted to. It wasn't because other people was
12 obligating me to do it. It's because I wanted to do it.

13 So I want to see if I could give it to myself, if I
14 could give it to my family, to be able to do the right thing
15 for once in my life, be able to do the right thing. Stop going
16 out and going back to the same people that I've been going to,
17 the same people that I've been going to. Again, these people
18 don't have nothing to do with what I was doing, because they
19 didn't obligate me to do what I was doing. I was doing what I
20 was doing because I wanted to.

21 So I want to see if you can give me a chance to be
22 able to show it to myself and to be able to show it to my
23 family that I could do something; that I am more than what the
24 paper says that I am. Because in the paper, the papers don't
25 really know me. The papers just say these things that I do.

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1 The papers don't know who I really am. This is not the person
2 who I am. Because when I'm in my right state of mind and I'm
3 with my family, they can tell you who I really am. I'm not
4 this person that these papers say that I am. I'm not no
5 violent person. I don't even like violence. I'm a very loving
6 person. And everybody I chill with, everybody I have time
7 spending with since, I'm a really good person.

8 It's just that I have to give myself the opportunity
9 to show the people that I'm supposed to show who I really am.
10 It's just I'm -- going by these papers, it says who I'm not --
11 who I'm not. You know, it's just the mistakes that I have
12 done. I just want to be able to have -- be able to see if I
13 can get one more chance to show to my family who I really am,
14 the people that really do know me. And I just want to leave
15 everything behind and be able to start brand new. I have a lot
16 of trades that I can accomplish. I have a lot of things that I
17 really know that I can accomplish. There's things that I
18 really do want to do. It's just I haven't let myself or given
19 myself the opportunity to really do it. I know if I go home
20 and I do at least one more thing wrong, I might fall here, but
21 I might never go back home, you know. I just want one more
22 opportunity. I want one more chance, if it's okay.

23 THE COURT: Okay. Anything else from the government
24 or the defense?

25 MR. MASIMORE: No. Thank you, your Honor.

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1 MR. MACK: Nothing further, your Honor.

2 THE COURT: Is there any reason why sentence should
3 not be imposed?

4 MR. MASIMORE: No, your Honor.

5 MR. MACK: No. No, your Honor.

6 THE COURT: What is the government's position on
7 restitution?

8 MR. MASIMORE: Your Honor, I'll submit information
9 within the statutory time period.

10 THE COURT: What's the government's position on
11 forfeiture?

12 MR. MASIMORE: There is a previously entered order by
13 consent that will convert to a final order. So if the Court
14 will make that part of the judgment and conviction, please.

15 THE COURT: Okay. Mr. Maccow, are you satisfied with
16 your legal representation up to this point?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Are you ready to proceed with sentencing?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: I will not impose a fine. I will impose
21 the \$300 special assessment, \$100 for each count, Counts One,
22 Two and Three.

23 Regarding the term of supervised release for Counts
24 One and Two, I will impose a term of three years' supervised
25 release; for Count Three, a term of five years' supervised

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1 release, and all terms of supervised release concurrently to
2 each other.

3 I will impose the mandatory conditions of supervised
4 release. And Mr. Maccow shall not commit another crime. He
5 shall not illegally possess a controlled substance. He shall
6 not possess a firearm or destructive device. I will suspend
7 the mandatory drug testing condition. He shall cooperate with
8 the collection of DNA as directed by the probation officer.

9 I will impose the standard conditions of supervision,
10 along with the following special conditions: That he shall
11 provide the probation officer with access to any requested
12 financial information; that he shall not incur new credit
13 charges or open additional lines of credit without approval of
14 the probation officer, unless the defendant is in compliance
15 with the installment payment schedule. He shall participate in
16 a program approved by the probation office, which program may
17 include testing to determine whether he has reverted to using
18 drugs or alcohol, and authorize the release of available drug
19 treatment and evaluations of the courts to the drug treatment
20 service providers approved by the probation officer. He shall
21 be required to contribute to the cost of services rendered in
22 an amount determined by the probation officer based on ability
23 to pay or availability of third-party payment.

24 He shall submit his person, residence, place of
25 business, vehicle or any other premises under his control to a

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1 search on the basis that the probation officer has reasonable
2 belief that contraband and evidence of a violation of the
3 conditions of the release may be found. The search must be
4 conducted at a reasonable time and in a reasonable manner.
5 Failure to submit to a search may be grounds for revocation.
6 He shall inform any other residents that the premises may be
7 subject to search pursuant to this condition.

8 I shall also require that he be evaluated on release
9 to determine if there are any mental health conditions that
10 would require any appropriate programs in dealing with any
11 mental health issues. He is to report to the nearest probation
12 office within 72 hours of release from custody. He should be
13 supervised in the district of residence.

14 I realize that I have the authority to downwardly
15 depart. I realize that I also have the ability to vary under
16 the guidelines, and I've considered all the factors in 18,
17 U.S.C, 3553(a).

18 Mr. Maccow, I do believe that you have the ability to
19 do much better than your rap sheet indicates. And while I
20 certainly have to consider your record and I have to consider
21 the crime, I've also considered the factors concerning you and
22 who you are as a person. And I feel that it's appropriate for
23 me to sentence you to a somewhat lengthy period of
24 incarceration, because while I know that you have this
25 potential, you certainly haven't actualized that potential thus

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1 far. And one of the problems may truly be that in the criminal
2 justice system, we haven't done a good job of really getting
3 that message across to you by imposing these light sentences
4 over and over and over again.

5 So I want you to try to remain focused while you're in
6 custody and continue to lean on your family. And I want to
7 thank your family for being here and thank you for all the
8 letters that you've submitted. I have taken this case, as I
9 take every case, very seriously, but I've certainly taken your
10 case very seriously. I've listened to all the arguments of
11 your attorney, the arguments of the government and everything
12 that you have said. And again, I am concerned about the need
13 for specific deterrence in this case, because while I think
14 there are some seeds there in terms of really trying to accept
15 ownership over your actions, I am still troubled by what I see;
16 not -- by what your record reflects and by the comments that
17 you've made here.

18 Of course, I'm not trying to hold you to any standard
19 to be some great orator. I think you've spoken from the heart,
20 and I think you've told me truly how you feel. But some of the
21 arguments that you've made were quite good arguments, but
22 unfortunately, the facts kind of get in the way of some of
23 those arguments in terms of the money that you were making
24 before you were arrested here, the opportunities that you did
25 have.

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1 And I know that you care deeply about your family and
2 I know that your family cares deeply about you. You have to
3 take your decisions seriously. And I know that you do, but you
4 have to take those decisions seriously at the time when you're
5 making those decisions.

6 So the crime here is a serious crime. And I do think
7 there is certainly a need for specific deterrence, because in
8 particular, you had done two years for this crime with this
9 same group of people, and once you were released, went back to
10 doing the same thing with this same group of people. And even
11 though you didn't get any criminal history points for that,
12 it's certainly something that I'm considering in terms of the
13 specific deterrence here.

14 And the fact that you're addicted is a very serious
15 thing. And of course, as you know, that doesn't give you the
16 right to burglarize pharmacies or to commit crimes and the
17 like. And it seems that the two-year sentence wasn't enough to
18 deter you from that conduct.

19 So while I have the authority to downwardly depart and
20 vary from the guidelines, I choose not to do so. I've
21 considered all those factors. I do believe that a sentence at
22 the low end of the guidelines is appropriate in this case. And
23 I will impose a term of custody of 87 months.

24 Counsel, do you wish for me to recommend the RDAP
25 program?

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1 MR. MACK: I do, your Honor. As well as if there is
2 any mental counseling program within where he is to be
3 designated, that at least he be considered for that. And also,
4 I would ask the Court to recommend, if possible, a designation
5 to New Jersey, which is his situation, some facility in
6 New Jersey so he can be closer to the people who are here in
7 court today and other family members.

8 THE COURT: Counsel for the government, anything on
9 that?

10 MR. MASIMORE: No, your Honor.

11 THE COURT: So I will recommend that Mr. Maccow, if
12 qualified, be able to participate in the RDAP program.

13 I also recommend that he be considered for any mental
14 health treatment that's available. And I will recommend
15 perhaps it's easier, counselor, let me know if you want me to
16 say this a different way. I'll recommend that, consistent with
17 those recommendations of the RDAP program and any mental health
18 program, that the Bureau of Prisons seek to place him in a
19 facility as close to the New York City metropolitan area as
20 possible. That may be a little bit more inclusive than just
21 saying New Jersey. If you want me to say New Jersey, I'll do
22 that.

23 MR. MACK: I think the New York City area, your Honor,
24 is probably best, given the possibility of those programs being
25 available.

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1 THE COURT: And I'll recommend that he be placed in a
2 facility as close to New York City metropolitan area as
3 possible, consistent with the recommendations of the RDAP
4 program and any mental health treatment.

5 Are there any open counts?

6 MR. MASIMORE: I believe there are. To the extent
7 there are, your Honor, the government moves at this time to
8 dismiss them as to this defendant.

9 THE COURT: That is granted.

10 Mr. Maccow, you have a statutory right to appeal. You
11 should talk to your lawyer about that. There are time
12 constraints on your ability to file an appeal, so you should
13 speak to them about that quickly.

14 If you cannot afford to hire a lawyer to prosecute the
15 appeal, the Court will give you an attorney for free. Do you
16 understand?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Anything else from the government?

19 MR. MASIMORE: No, your Honor.

20 THE COURT: Anything else from the defense?

21 MR. MACK: No, your Honor.

22 THE COURT: I just want to say in closing, good luck
23 to you, Mr. Maccow. I know that this probably is not what you
24 were hoping for in terms of the sentence here, but I sincerely
25 hope that you can get things together. I hope that you will

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1 continue to lean on your family; that your family I know will
2 continue to support you and you shouldn't give up hope. You
3 are more than what you have done. You are not the equivalent
4 of the bad decisions that you've made. But you've got to take
5 it seriously and start making some better decisions. And with
6 your family's help, I sincerely hope that you will.

7 Thank you. And again, I want to thank the family
8 again for all of their letters and for being here today.

9 (Adjourned)